

**PLANNING COMMISSION
SUMMARY MINUTES
COMMISSIONER'S HEARING ROOM, COUPEVILLE, WA
MONDAY, SEPTEMBER 28, 2015**

| | <i>Members Present</i> | <i>Members Absent</i> |
|-------------------|--------------------------------|-----------------------|
| <i>District 1</i> | <i>Val Hillers</i> | |
| | <i>Dean Enell – Vice Chair</i> | |
| | <i>Karen Krug</i> | |
| <i>District 2</i> | <i>Jeffery Wallin– Chair</i> | |
| | <i>George Saul</i> | |
| | <i>Darin Hand</i> | |
| <i>District 3</i> | <i>Wayne Havens</i> | |
| | <i>Beth Munson</i> | |
| | <i>Scott Yonkman</i> | |

Meeting was called to order at 2:00 p.m. by Chair Wallin.

ROLL CALL

Wayne Havens, George Saul, Scott Yonkman, Val Hillers, Jeff Wallin, Dean Enell, Darin Hand, Karen Krug, Beth Munson

MINUTES

August 10, 2015

Commissioner Hillers moved to approve the minutes, Commissioner Yonkman seconded, motion carried unanimously.

Planning and Community Development staff present: Dave Wechner – Director, Brad Johnson – Long Range Planner, Meredith Penny, Long Range Planner, Nathan Howard, Long Range Planner

ITEMS FROM THE PUBLIC

None

DIRECTOR'S REPORT

None

NEW BUSINESS

Public Hearing and deliberation: Review of the required and recommended changes by the Department of Ecology (DOE) to Resolution C-125-12, adopted December 27, 2012, amending Island County's Shoreline Master Program (SMP).

Director Wechner provided a review of the SMP process. On August 17, 2015, the DOE conditionally approved Island County's proposed comprehensive update of its SMP. The update will revise the existing shoreline program, including the goals, policies, regulations, shoreline environment designations, and administrative procedures and definitions. Final DOE approval will occur when the County and DOE agree on language that meets state requirements.

Brad Johnson discussed the history of the SMP and how it came to be conditionally approved by the DOE that contains Findings of Fact, Conclusion and Recommendations. He informed the

Planning Commission that the discussion should narrowly be focused on the merits, the changes requested by DOE and not on the elements of the SMP that are not subject to change. The range of options available to Island County at this point under State law are to accept the changes requested by the DOE, to appeal the SMP to the Growth Management Hearing Board (GMHB), or to submit alternatives requested to the changes by the DOE. Under the scenario where alternatives are submitted to the DOE would initiate another round of review, similar to the previous review, notice would be provided to parties and allow for additional time to allow for public comment. Island County has recommended the acceptance to the changes submitted by DOE.

Dave Wechner added that David Pater with DOE is also present to answer any questions.

Commissioner Krug asked if staff can confirm net pens have never been applied for or permitted by Island County.

Brad responded that nobody has applied for net pen aquaculture in Island County.

Commissioner Enell referred staff to page 62, number 4 in the updated SMP in the regulations document; it says if someone develops 5 or more parcels they have to provide public access to the shoreline. He was unclear what the jurisdiction that defines such development is.

Brad replied that the requirement applies any development that involves 5 or more units not taking any existing opportunities for public access.

Commissioner Hillers mentioned to Commissioner Enell that they were asked to only discuss the things that were changes requested by DOE and the Planning Commission approved it in 2012.

Commissioner Enell stated he had questions regarding aquaculture. He said there have been a large number of changes. He read the staff response to DOE saying that most of the changes have been taken care of.

Brad Johnson asked Commissioner Enell if he is referring to the changes related to Geoduck aquaculture. The basis for the requirement is that DOE's regulations have very specific requirements related to Geoduck aquaculture and the change requested was to either adopt verbatim the requirements from the Washington Administrative Code (WAC) or develop unique requirement which implements each one of the policy requirements identified in the WAC. DOE's requirement was based on their assessment that the requirements initially in place do not meet those State requirements. Under the old SMP, Island County would have been required to comply with those WACs because they were referenced in the SMP. They are reprinted verbatim in the updated SMP at the DOE's request. That is why there appears to be such a large number of changes; it's a lengthy section of DOE's regulations and each one of them was essentially cut and pasted from the State Regulations into the SMP.

Commissioner Enell read Item 5.6 on page 66 and asked if a Conditional Use Permit is required for an aquaculture project.

Brad Johnson responded that requirement was removed from that specific code provision, elsewhere in the SMP; it states that a conditional use permit is required for any aquaculture. It is not necessary to state with respect to the cultivation of new organism there is a conditional use permit required because a conditional use permit is required for any form of aquaculture. The change involving the change involving the State Department of Health (DOH), DOE pointed out

it was the DFW that has the authority to cultivation of new organisms in marine waters and that is why the change was made.

Commissioner Enell discussed Item 2 changes. He asked staff if the permit would need to be renewed after 5 to 10 years.

Brad Johnson responded it is an extension, not a requirement to obtain a new permit on a 5 year basis.

Commissioner Enell read page 66, number 6, and said it was removed. He read in the DOE Report that they did not want such areas designated unless they were clearly defined. Holmes Harbor is a very sensitive soils area and seems logical to him to that there would such restrictions there.

Brad Johnson said the DOE requirement change number 26 in their required changes letter, the specific objection was that designating those areas for all forms of aquaculture without demonstrating what exactly those environmental impacts could not be supported under the policies of Shoreline Management Act. He does not believe the objection was the lack of proper definition of those bodies of water.

Commissioner Enell asked if someone wanted to see the actual requirements of the DOE and where would he locate them. His concerns are that they have spent a lot of time and heard a lot of public comment on limiting aquaculture and he is wondering if all those concerns are adequately addressed.

Brad Johnson said many of the requirements that Island County had imposed initially the DOE felt they were not consistent with State law. The central issue is that under State law, Island County is supposed to balance the protection of the environment with the promotion of water dependent uses. That is why some of the very restrictive policies were stripped from the initial package.

Commissioner Enell recalled the DOE did not want the County to ban net pens either and they relented on that decision. The County may have had excessive protections on aquaculture. He asked if a Conditional Use Permit is required.

Brad Johnson replied that a Conditional Use Permit is required for all forms of aquaculture including changing from one species to another and is clarified on Page 66 Number 2. The exceptions are planting and harvesting cycles; they do not trigger the need for a new permit.

Commissioner Enell said he was uncomfortable with so many restrictions on aquaculture being removed. He will have to carefully read the regulations to make sure all their concerns were addressed.

Commissioner Hillers said the word *suitability* is misspelled in the Goals and Policies on page 27 Item 5.

PUBLIC COMMENT

John C. Martin, Clinton

Mr. Martin wanted to speak on his behalf and as one of the trustees of the Sandy Hook Development; he is in favor of the document presented to the Planning Commission. He considers this will be a winning situation with one major change being the canal communities.

For the first time in history in Island County, the canal communities will have the ability to do a community wide master plan to meet with the requirements instead of each individual property owner having to do a shoreline permit. He was hoping an item would be changed on Page 100 Number 9. The language still exists for a 4 foot maximum width for piers, ramps and floats. The width is not a problem; he did a survey on every dock in their community and there are various widths. They give wave actions that are inter-channelled. The north end of the docks are getting 1 to 2 foot waves; 4 foot waves are dangerous and he would like the document to show consideration in those circumstances that they are allowed to go up to 4 feet. When the Department is drafting the document for the canal communities they would be happy to offer input.

Ron Young, Clinton

Mr. Young wanted to address the canal communities and provided a copy of his questions to the Planning Commission. He read the list of questions.

- What types of projects will the master plan cover?
- Will a Biological Site Assessment (BSA), Geotech, or mitigation for no net loss be required?
- Once the SMP is approved, can there be a meeting or series of meetings with the Shoreline Administrator or Planners to discuss canal communities Shoreline Conditional Use Permit (S-CUP)? He would like to gather the various canal communities and staff to discuss the streamlined process.
- Is there an anticipated time frame that the canal communities have to submit a master permit plan?
- Is it anticipated that the 6-year S-CUP be renewed if the conditions of the original approval are still basically the same? Can it be changed to coincide with the Island County review process which he believes is 10 years?
- Please clarify the construction requirements for floats and docks, especially in canal communities. Width of 4 feet for new docks is too small for a shared, community dock. Especially while other docks in the marina are larger. Are there provisions for this? Will there be some leeway in the Master Plan S-CUP process?
- Once the canal community master plan is in place, what kind of permit will be required for individual projects? He is assuming it is a building permit and a flood development permit.
- Can vacant lots have a dock or float or does there need to be a single family residence?
- Landscape/screening requirements for marinas 17.03.180P. What about the CCR & Rs for the community or the surrounding existing conditions?
- What is the difference between retaining walls and bulkheads? In the canal communities a bulkhead protects from wave surges, the inner channels are well protected and they basically have retaining walls. He feels there needs to be a clear definition for these circumstances.

Dannon Traxler, Bellingham

Ms. Traxler is speaking on behalf of Karl Krieg, an Island County property owner and she submitted a letter on Friday to the Planning Commission. She understands staff would like them to narrow their focus to the DOE recommendations but she is going to speak on issues outside

those changes because she believes that there are legal issues to consider before the SMP is codified.

- The most important concern is the contradiction between the Zoning Regulations and Comprehensive Plan. The GMA requires that all of the items are consistent. The Shoreline Designations need to be consistent with the Zoning Code.
- Mr. Krieg's property has been designated as a Rural Area of Intensive Development (RAID). When included in a RAID it can be assumed that a person may develop to the density. In his case he should be allowed to develop up to 2 units per acre, the Shoreline Designation which undoes that and only allows him to develop one unit per acre. They are inherently contradictory to each other and create a legal problem in the Code and should really be addressed before it is approved.
- She understands that DOE has made these changes and there has been a lengthy process. The problem with these problems is that a lot of people don't know about this and she guarantees they will be hearing about this for years. A lot of people purchase shoreline properties for their retirement, come back develop it years later and they run into restrictions. They have onerous setbacks they have to deal with, in a lot of cases they can't build up to what they want to. What she has seen with her clients, they are restricted within their development footprint, they want to build single story, because they don't want to go up and down stairs, but they are restricted due to setback requirements. Those are examples of what the Planning Commission might see in the future from property owners who really don't know what is going on despite the public process. A lot of people do not have computers, they are not looking at the County website all of the time. She said Mr. Krieg never knew that this happened until he tried to sell his property. He not only has density issues but he has setback issues too.
- She told the Planning Commission that this is their plan, DOE gets involved, they recommend approval and they approve it and then it becomes part of the Shoreline Management Act (SMA). The County will have to defend it, DOE may participate a little bit but they are not going to pay the legal fees. The County will need to make sure the plan is tight and consistent with the rest of the regulations before it is approved and this is their chance to do so. The Planning Commission has the opportunity to recommend alternatives and send it back to DOE. There will additional be additional public process He did not know what was going on until he tried to sell and ran into other restrictions. There would additional public process but it would be worth it to make sure that everything is addressed and they would be doing the citizens right.
- She submitted a map of properties that are inconsistent with their zoning. Residential development is a preferred use under the SMA. People should be allowed to build up to their density that is allowed by the zoning code.

Commissioner Hillers had questions for Ms. Traxler about the map. She said it was confusing, a legend is not provided for the various arrows are.

Ms. Traxler stated the arrows are intended to go with the subdivision. She further explained the various zones on the map and where there are contradictions.

Chair Wallin said he looked at the Shoreline Designation and RAID maps and it appears that the Sunrise Hills development is designated Shoreline Residential. He asked staff if there is a different map available.

Brad Johnson responded that he has not looked at each area. He said the Shoreline Environmental Designations were assigned during the SMP process on the basis of criteria that are laid out on the SMP.

Further discussion regarding shoreline designations continued.

Steve Erickson, WEAN, Langley

Mr. Erickson pointed out, what happens on the shoreline affects more than just the property owners which is the reason why there is the SMA. He is glad they are approaching the end of what has been a very long and drawn out process that has been going on since 2010. There have been hundreds of comments and dozens of workshops/hearings. He said the reason it was held up was due to the net pen salmon farming conflict. He said this is an international issue. He explained the impacts net pens have had in areas that allow them. They have achieved a first with the DOE and there will be a lot of repercussions not just in Island County but all over the world. This is the one issue everyone was in favor of and not allow net pens. He thinks it is time to approve the SMP and is better than what previously existed.

David Pater, DOE Shoreline Planner

Mr. Pater wanted to make a few points to highlight in the discussion. He agrees with Steve Erickson that the public process was very extensive, more than any other county. The hope was to reach everybody; DOE held a public hearing also and in his opinion the planning was well done. He worked in partnership with Island County staff and has gone through various iterations and for the end of the process has also worked BOCC. The County did a great job of delineating the shoreline environment designations in the marine and lake shoreline, he has compared it to other processes and this is one of the more thorough plans done. He spoke briefly on the net pen issue and he is glad there is a pause on it. It will be looked at more thoroughly across the Puget Sound. That process will begin in November with the University of Washington. He thanked the Planning Staff, Planning Commission and Board of County Commissioners for their hard work over the last five years.

Commissioner Krug asked about Mr. Martins' comment about having the four foot floats that are recommended in canal communities and are there other solutions available to them

David Pater said there is a designation in the plan and does allow for some flexibility.

Brad Johnson referred the Planning Commission to page 102 items 24 which states that within canal communities the master permit can allow different dimensional standards.

Commissioner Enell asked Mr. Pater about aquaculture and geoducks, he said permits would be issued for 5 to 10 years, renewals would be granted with no significant or environmental impacts have occurred. If someone wants to renew the permit, is there any burden of proof that they have to provide that no significant environmental or ecological impacts have occurred as a result of the permitted operation or is it on the shoulders of the permitting agency to determine if it has

David Pater responded to Commissioner Enell that a lot of it is based on if the operation is changing that much, is there a new species, are they restructuring the operation, they have to look at the trigger mechanisms. There is some sensitivity with the shellfish industry.

Discussion on aquaculture activities and permitting continued.

Commissioner Hillers moved to close the public hearing, seconded by Commissioner Yonkman; motion carried unanimously.

Commissioner Krug moved to recommend to the Board of Island County Commissioners that they accept the changes identified in the letter from Department of Ecology and codify the necessary changes to the Comprehensive Plan in Island County Code, seconded by Commissioner Hillers; motion carried unanimously.

Public Hearing: Review for report proposed AG Ordinance PLG-005-15, adopting official controls to amend development regulations in Island County Code Chapters 17.02 and 17.02B that apply to preexisting agricultural activities within critical area overlay zones. Dave Wechner provided an overview and history of the Agricultural Activities that preexist in the critical areas.

Commissioner Hillers referenced Exemption Table, Item 1 and asked what qualifies a new use and triggers the lack of exemption.

Brad Johnson responded that it was adopted under the Fish and Wildlife Update. He provided examples a drainage facility that is part of an existing and ongoing agricultural practice and then the property was then converted to a residential subdivision subsequent maintenance of the drainage facility would fall under the purview of the regulations and not be part of the agricultural exemption.

Commissioner Hillers wondered if they were changing crop type is not a new use.

Brad Johnson said a new use would be the establishment of agricultural practice on a property not previously used for agricultural practices or the conversion of an agricultural property to a non-agricultural use.

Commissioner Hillers asked if they will reevaluate this in the Comp Plan Update.

Dave Wechner responded that all provisions of the Critical Areas Ordinance will be reviewed during the Comp Plan Update.

Commissioner Yonkman asked about participation on the agricultural tax program and what is it.

Dave Wechner said in order to participate there needs to be an income produced by the agriculture in order to participate.

PUBLIC COMMENT

Steve Erickson, WEAN, Langley

Mr. Erickson stated he is pleased with the proposed AG Ordinance.

Commissioner Hillers moved to close the public hearing, seconded by Commissioner Enell; motion carried unanimously.

Commissioner Krug asked staff to respond to the Island Farm Bureau letter that was submitted.

Dave Wechner read the letter submitted by the Island Farm Bureau Letter and answered their concerns in regards to the zoning impacts.

Planning Commissioners discussed tax programs, Farm Management Plans and agriculture activities.

Commissioner Enell moved to recommend the approval of the report to the Board of Island County Commissioners as presented by the Planning Staff, seconded by Commissioner Yonkman; motion carried unanimously.

Planning Commission Workshop to discuss the Comprehensive Plan Working Draft which includes Housing, Natural Lands, Historic Preservation, Transportation, Parks and Recreation and Utilities Elements.

Chair Wallin read the purpose of a Planning Commission workshop.

Brad Johnson presented the purpose of the workshop and the focus is on the goals and policies of the items being discussed.

Meredith Penny presented the various Elements and Policies; the purpose of the element and the strategies.

- Housing
- Natural Lands
- Historic Preservation – adopted in 1980.

Nathan Howard discussed the following Elements and their policies.

- Transportation –the goals and policies are from the work done by the consultants working with the Public Works Department and are not adopted. The changes are being taken to the Board on October 7th.
- Parks and Recreation was adopted in 2011.
- Utilities section has not been updated since 1998.

Planning Commission members made the following comments:

- Commissioner Hillers said the Historic Preservation needs the most updating. She asked Meredith if there needs to be a consideration of other properties in the County.
 - Meredith said there is not enough staff to look at the entire inventory throughout the County.
- Commissioner Hillers suggested that there be a recommendation to create a subcommittee to focus on Ebey's Reserve.
 - Dave explained that there exists a Historic Commission and they do a yearly inventory.
- Commissioner Krug asked if it can be left open to expand it the rest of the county.
- Commissioner Krug asked about the additional staff position to oversee the Housing Element.
- Commissioner Enell commented on:
 - Affordable housing availability.
 - Public access to Natural Lands.
 - Carbon issues.
 - Real estate tax versus incentives on solar energies.
- Commissioner Krug suggested funding for the maintenance of the natural lands.
- Commissioner Saul said the elements for chapters were the staff has authored having the functional department lends to clarity accountability and ownership.
 - Establish a protocol where the goals and strategies are aligned instead of creating independent plans.

- Standardized formats.
- He recommends staff remove the fluff too much promotional verbiage, do not restate items that can be located elsewhere.
- Be clear and concise.
- Housing – to have a goal begin with “encourage” should be removed and use “achieve”
 - Commissioner Hillers and Yonkman asked about the docket that was reviewed years ago.
 - Brad stated there was no new information.
 - Commissioner Krug said it seems more of a zoning issue to find out where housing can exist or be built. The UGAs seem to be more city controlled. Those areas are getting smaller and are creating sprawling.
 - Commissioner Munson asked what the housing is based on; what is the demand and trends.
 - Commissioner Hand said using the acronym SMART
 - *Specific* – target a specific area for improvement.
 - *Measurable* – quantify or at least suggest an indicator of progress.
 - *Assignable* – specify who will do it.
 - *Realistic* – state what results can realistically be achieved, given available resources.
 - *Time-related* – specify when the result(s) can be achieved.
 - Commissioner Saul said it is very important to have accountability.
- Commissioner Enell discussed affordable housing and the demand.
- Commissioner Yonkman asked if there is a definition section.
- Commissioner Hillers said there needs to be language how the public uses private lands because they may see the Reserve as a National Park and they can wander anywhere. There needs to be delineating language on private lands and public use of private lands.
 - Dave Wechner responded also explained the PBRs program and the context it may be discussed.
- Commissioner Hillers addressed Susan Bennett’s written comment that the Island County Conservation District is funded by Washington State University. The program is a tax funded program.

PUBLIC COMMENTS

Steve Erickson, WEAN, Langley

Mr. Erickson said it is his observation there needs a more hierarchal arrangement.

- Park and natural lands and management.
- Ebey’s Landing needs to be clearly labeled.
- Need to avoid redundancy; formatting and arrangement can save a lot of verbiage.
- There needs to be a narrative that explains the context of the County and why they have made the policy choices.

Kristen Griffin, Reserve Manager Ebey’s National Reserve

Ms. Griffin discussed the history of Ebey’s Landing National Reserve and its uniqueness in how it is managed.

- She disagrees with Mr. Wechner that the HPC is the area to review the chapter.
- She does not think the annual review has occurred.

Wilbur Bishop, Coupeville

Mr. Bishop has been involved in Ebey's Reserve Landing. He discussed the development and creation of the Ebey's Element. The plan needs to be updated to be brought to the present tense. He thinks it would be great but it should not deviate very far from the concept plan.

Commissioner Enell moved to adjourn, Commissioner Krug seconded, motion carried unanimously.

Meeting adjourned at 4:32 p.m.

Respectfully submitted,

Virginia Shaddy